

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 762 – Internet Predators (LSB 1450 HV.1)

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Fiscal Note Version – Amendment H-1503 to HF 762

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**Description**

Amendment H-1503 to HF 762 creates a new crime, indecent exposure by electronic transmission of an image, and provides a graduated system of penalties (either an aggravated or serious misdemeanor) depending upon the circumstances of the offense. The Amendment provides that the new crime is not a sexually violent offense for the purpose of commitment under Chapter 229A, Code of Iowa. The Amendment retains the redefinition of sexual abuse in the second degree to be committing a sex act with a person less than 13 years of age, and the redefinition of sexual abuse in the third degree to be committing a sex act with a person who is at least 13 years old.

**Background**

- Enhancing penalties increases the average length of stay in prison and the incarceration rate (number of offenders sentenced to prison). The prison incarceration rate for sex offenders is 51.5% for Class D felons, 74.2% for Class C felons, and 90.4% for Class B felons.
- There were 50 convictions for indecent exposure during FY 2006. This Amendment creates an additional charge, by electronic transmission of an image. There is no comparable Iowa law with which to estimate the number of convictions. It is likely the number of convictions will increase, especially since the Amendment does not permit deferred judgments or deferred sentences for aggravated misdemeanor convictions.
- Offenders convicted of indecent exposure by electronic transmission of an image are sentenced to either an aggravated or serious misdemeanor. These offenders will also be subject to the requirements of the Sex Offender Registry, supervision and treatment in Community-Based Corrections (CBC), and electronic monitoring. These offenders are also subject to the special sentence under Section 903B.2, Code of Iowa, which is a 10-year sentence that starts after serving the penalty for the serious misdemeanor.
- Under current law, offenders convicted of sexual abuse in the second degree are sentenced to a Class B felony (25 years) and are required to serve at least 70.0% of the sentence in prison before being considered for parole. The average length of stay in prison is 232 months (19.33 years). These offenders are also subject to the special sentence of life time supervision under Section 903B.1, Code of Iowa. These offenders are also subject to the requirements of the Sex Offender Registry, supervision and treatment in Community-Based Corrections (CBC), and electronic monitoring.
- There were 338 charges for sexual abuse in the second degree in FY 2006. There were 147 convictions resulting from these charges. Of these 147 convictions, 36 were convictions as originally charged. These 36 convictions resulted in 23 offenders convicted of sexual abuse in the second degree in FY 2006. Several offenders were convicted of multiple charges.
- Under current law, offenders convicted of sexual abuse in the third degree are sentenced to a Class C felony (10 years). The average length of stay in prison is 53 months (4.41 years). These offenders are also subject to the special sentence of life time supervision under Section 903B.1, Code of Iowa. These offenders are also subject to the requirements of the Sex Offender Registry, supervision and treatment in Community-Based Corrections (CBC), and electronic monitoring.

- There were 544 charges for sexual abuse in the third degree in FY 2006. There were 283 convictions resulting from these charges. Of these 283 convictions, 197 were convictions as originally charged. These 197 convictions resulted in 191 offenders convicted of sexual abuse in the third degree in FY 2006. Several offenders were convicted of multiple charges. Some of these offenders were originally charged with sexual abuse in the second degree.
- According to the Criminal and Juvenile Justice Planning Division, average time served prior to death for an inmate serving a life sentence in prison is 197 months (16.4 years). Average age at death is 57 years. It is likely offenders serving a sentence for a B felony under this Bill will die in prison because their average length of stay is 19.33 years.
- The fee limit for court-appointed counsel for indigent defendants is \$600 for a serious misdemeanor, \$1,200 for an aggravated misdemeanor or Class D or C felony, and \$3,600 for a Class B felony.
- The Judicial Branch incurs average costs of \$110 for a serious or aggravated misdemeanor bench trial, and \$500 for a trial by jury. Average costs for a Class D or C felony bench trial are \$300, and \$1,300 for a trial by jury. The average cost for a Class B felony conviction is \$300 for a bench trial, and \$2,300 for a trial by jury.
- The marginal cost per day for State prisons is \$14.80 per offender. The average length of stay in prison for aggravated misdemeanor offenders convicted of a sex offense is nine months. The average length of stay on parole for aggravated misdemeanor offenders is 5.72 months. These offenders will also serve an additional 10 years on supervision after the original sentence is served.
- The average cost per day for probation or parole is \$3.18 per offender. The average cost for intensive supervision is \$6.77 per day per offender. Global Positioning System (GPS) bracelets cost \$7.88 per day per offender.
- The average length of stay on probation for serious misdemeanor offenders is 11.94 months. These offenders will also serve an additional 10 years on supervision after the original sentence is served.
- The State standard for intensive supervision is a case load of 26 offenders per officer. An entry level Parole/Probation Officer III position costs \$57,380 annually.
- The Department of Human Services (DHS) maintains a database of child abuse intake and assessment. Programming costs of \$6,000 will be incurred under HF 762. Approximately 52.0% of the cost will be reimbursed by the federal government.

### **Assumptions**

- FY 2006 offender-based convictions were used to estimate the number of future offenders.
- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- The criminal sentencing enhancements will become effective July 1, 2007. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
- Under current law, the victim of sexual abuse in the second degree is required to be under the age of 12. Raising the age of the victim to 13 years old increases the likelihood that there will be more victims of sexual abuse in the second degree and more offenders convicted of the Class B felony offense. Offenders who are currently convicted of the Class C felony will be convicted of the Class B felony under the Bill.
- The law does permit early discharge for special sentences, either the additional 10 years or life time supervision. However, the Board of Parole does not usually discharge sex offenders early from supervision. This analysis assumes the Board will continue this practice and will not allow early discharge.

## **Correctional Impact**

The correctional impact of the new crime, indecent exposure by electronic transmission of an image, cannot be estimated because there is no data available. It is likely the number of convictions will increase.

There is no significant correctional impact for raising the age of the victim to 13 for sexual abuse in the second degree because convictions of the Class B felony are rare. Offenders convicted of a Class B felony (sexual abuse in the second degree) or Class C felony (sexual abuse in the third degree), are both subject to life time correctional supervision.

## **Fiscal Impact**

The fiscal impact for indecent exposure by electronic transmission of an image cannot be estimated. However, the average State costs for one aggravated misdemeanor conviction for a sexual abuse offense with a minor victim ranges from \$30,000 to \$49,000. The costs will be incurred across multiple fiscal years for correctional supervision. These amounts do not include additional costs related to sex offender treatment or the Sex Offender Registry. These amounts assume a maximum of one year in prison, 5.72 months on parole, and no early discharge (the offender will serve the additional 10 years of supervision under the special sentence). The range of costs is a function of the amount of time the offender is required to wear a GPS monitoring device.

The average State costs for one serious misdemeanor conviction for a sexual abuse offense ranges from \$13,000 to \$16,000. The costs will be incurred across multiple fiscal years for correctional supervision. These amounts assume no time is served in prison and no early discharge (the offender will serve 11 years under CBC supervision). The range of costs is a function of if the offender is required to wear a GPS monitoring device.

The cost difference between a conviction for a Class B felony sexual abuse offense with a minor and a Class C felony sexual abuse offense with a minor is approximately \$48,000 per offender. The cost increase is a function of length of time served in prison.

The Department of Human Services will incur estimated one-time costs of an additional \$2,900 from the General Fund in FY 2008 for programming databases.

## **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Department of Human Services  
Office of the State Public Defender  
Judicial Branch

/s/ Holly M. Lyons

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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